

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04CV11023 RCL

LEON ROBINSON,
Plaintiff

v.

THOMAS MENINO, PAUL F.
EVANS, JAMES WYSE,
MICHAEL PRIMM, JOHN A.
MARTEL, WAYNE ROCK,
GARRETT MITCHELL,
CHARLES HARDY, AMERICAN
BROADCASTING CO., INC.,
HEARST-ARGYLE STATION
INC., WCVB TV (Channel 5,
Boston) DENNIS MCCARTHY
AND JOHN DOE I,
Defendants

**DEFENDANTS EVANS, WYSE, PRIMM, MARTEL, ROCK, MITCHELL & HARDY'S
OPPOSITION TO PLAINTIFF'S NOTICE OF OBJECTION AND REQUEST FOR
SUMMARY JUDGMENT AND DECLARATORY JUDGMENT**

Defendants Paul Evans, James Wyse, Michael Primm, John A. Martel, Wayne Rock, Garrett Mitchell and Charles Hardy oppose plaintiff's "Notice of Objection and Request for Summary Judgment and Declaratory Judgment" for the following reasons:

1. Plaintiff's Notice of Objection and Request for Summary Judgment and Declaratory Judgment is untimely and lacks any meritorious basis warranting relief. On June 6, 2004, the defendants filed a Motion to Stay the Proceedings until the resolution of the plaintiff's pending criminal proceedings, which relate to the plaintiff's allegations in this subject civil matter. Defendants American Broadcasting Companies, Hearst-Argyle Television, Inc. d/b/a/ WCVB Channel 5 assented to this motion. On March 24, 2005, this Court denied without prejudice the Motion to Stay, but also granted the defendants

additional time to file certified copies of all records and proceedings from the removed state court matter.

2. Pursuant to this Court's March 24, 2005 Order, the defendants hand-delivered a certified copy of the state court action from which this matter was removed to this Court on April 7, 2005, within the 21-day period provided by this Court. These records were then electronically docketed on April 11, 2005 by Docket Clerk, Don Stanhope.
3. In his Notice of Objection and Request for Summary Judgment and Declaratory Judgment, the plaintiff asserts his disagreement with the Court's March 24, 2005 decision allowing the defendants additional time to file these certified records from the pending state civil action. The filing of these records, however, provides the Court with the opportunity to establish whether it has proper jurisdiction over this matter.
4. Now that such records have been filed, this Court will make a determination on whether it has jurisdiction over this matter. Following this determination, this Court may issue a decision on the defendants Motion to Stay. Such determinations must be made before any summary judgment or declaratory judgment can even be considered.
5. Furthermore, should the Court consider the Plaintiff's Request for Summary Judgment and Declaratory Judgment, such request must be denied. The plaintiff has failed to provide any evidentiary support substantiating his claims. Moreover, plaintiff has failed to comply with Fed. R. Civ. 56 as well as the governing Local Rules.

For the foregoing reasons, the Defendants respectfully request this Court deny the Plaintiff's Notice of Objection and Request for Summary Judgment and Declaratory Judgment.

Respectfully submitted,

DEFENDANTS, PAUL F. EVANS, JAMES
WYSE, MICHAEL PRIMM, JOHN A. MARTEL,
WAYNE ROCK, GARRETT MITCHELL &
CHARLES HARDY

Merita A. Hopkins
Corporation Counsel

By their attorney,

/s/ Helen G. Litsas
Helen G. Litsas , BBO# 644848
Assistant Corporation Counsel
City of Boston Law Department
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CERTIFICATE OF SERVICE

I, Helen G. Litsas, hereby certify that on this date I served a copy of the foregoing documents upon: Leon Robinson (A-22594), Old Colony Correctional Center, Bridgewater, MA 02324, via first class mail.

<u>4/14/05</u>	<u>/s/ Helen G. Litsas</u>
Date	Helen G. Litsas